

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TOM M. FRANKS,

Petitioner,

V.

SUPERIOR COURT OF STANISLAUS
COUNTY,

Respondent.

| No. 1:20-cv-00136-NONE-EPG-HC

ORDER ADOPTING FINDINGS AND
RECOMMENDATION, GRANTING
PETITIONER SIXTY (60) DAYS TO
ASSERT CLAIMS UNDER 42 U.S.C.
§ 1983, AND DIRECTING CLERK OF
COURT TO SEND PETITIONER
PRISONER CIVIL RIGHTS COMPLAINT
FORM AND APPLICATION TO PROCEED
IN FORMA PAUPERIS

(Doc. No. 6)

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On February 11, 2020, the assigned magistrate judge issued findings and recommendations recommending that petitioner be granted leave to convert his habeas petition filed to initiate this action into a civil rights action under 42 U.S.C. § 1983, because if successful the claims asserted therein would not necessarily lead to his immediate or earlier release from confinement. (Doc. No. 6). The findings and recommendations were served on petitioner and contained notice that any objections were to be filed within thirty (30) days of the date of service of that order. To date, petitioner has filed no objections, and the time for doing so has passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a de novo review of the matter. Having carefully reviewed the entire file, the court concludes that

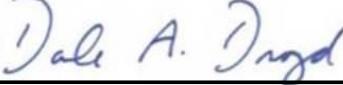
1 the findings and recommendations are supported by the record and proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The findings and recommendations issued on February 11, 2020 (Doc. No. 6) are
- 4 ADOPTED;
- 5 2. The Clerk of Court is DIRECTED to send petitioner a prisoner civil rights complaint
- 6 form and an application to proceed *in forma pauperis*;
- 7 3. Petitioner is GRANTED **sixty (60) days** from the date of service of this order in
- 8 which to assert claims under 42 U.S.C. § 1983;
- 9 4. Petitioner shall submit an application to proceed *in forma pauperis*, completed and
- 10 signed, or in the alternative, pay the \$400.00 fee for the civil rights action within **sixty**
- 11 **(60) days** from the date of service of this order; and
- 12 5. If petitioner fails to assert claims under 42 U.S.C. § 1983, the instant habeas action
- 13 will be dismissed without prejudice to petitioner refiling his claims in a separate
- 14 § 1983 action.

15 IT IS SO ORDERED.

16 Dated: April 1, 2020



UNITED STATES DISTRICT JUDGE

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